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3 *POSTED ON WEBSITE*
4 *NOT FOR PUBLICATION*

5 **UNITED STATES BANKRUPTCY COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
7

8
9 In re) Case No. 20-25072-E-13
10 RICHARD EUGENE MYRE,) Docket Control No. JHH-1
11)
12 Debtor.)
_____)

13 **This Memorandum Decision is not appropriate for publication.**
14 **It may be cited for persuasive value on the matters addressed.**

15 **MEMORANDUM OPINION AND DECISION**
16 **SUSTAINING OBJECTION TO CLAIM**

17 Richard Eugene Myre, Chapter 13 Debtor (“Objector-Debtor”), requests that the court
18 disallow the secured claim of Lauren Hayes (“Creditor”), Proof of Claim No. 1 (“Claim”), Official
19 Registry of Claims in this case. The Claim is asserted to be secured in the amount of \$62,680.62.
20 Objector-Debtor asserts that the Claim does not provide *prima facie* evidence that the claim is
21 secured and that Creditor bears the burden in proving that the claim is secured.¹

22 **APPLICABLE LAW**

23 Section 502(a) provides that a claim supported by a Proof of Claim is allowed unless a party
24 in interest objects. Once an objection has been filed, the court may determine the amount of the
25 claim after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party

26
27 ¹ The Objection to Claim has properly been set for hearing on the notice required by
28 Local Bankruptcy Rule 3007-1(b)(1). Creditor has filed an Opposition. The Parties as addressed
herein have stipulated to waive the Federal Rule of Bankruptcy Procedure 7001(2) requirement
for an adversary proceeding to determine the extent, validity, and priority of a lien or interest in
property, and to have that determined in this Contested Matter.

1 objecting to a proof of claim has the burden of presenting substantial evidence to overcome the
2 *prima facie* validity of a proof of claim, and the evidence must be of probative force equal to that
3 of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991);
4 *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006).
5 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate
6 to support a conclusion, and requires financial information and factual arguments. *In re Austin*, 583
7 B.R. 480, 483 (B.A.P. 8th Cir. 2018). Notwithstanding the *prima facie* validity of a proof of claim,
8 the ultimate burden of persuasion is always on the claimant. *In re Holm*, 931 F.2d at p. 623.

9 DISCUSSION

10 Objector-Debtor's Argument

11 Objector-Debtor maintains that California Code of Civil Procedure § 674 requires certain
12 information, to a standard of strict compliance, be present in an abstract of judgment. The
13 information that Objector-Debtor contends is missing from Creditor's abstract of judgment is (1) the
14 correct case number of the action from which the underlying judgment was issued, and (2) the name
15 and address of to whom and where the summons was personally served or mailed. The missing
16 information coincides with C.C.P. §§ 674(a)(1) and (3), respectively.

17 Objector-Debtor acknowledges that a proof of claim is presumed to be *prima facie* valid
18 under 11 U.S.C. § 502(a). However, Objector-Debtor contends that the allegations of the proof of
19 claim must set forth all the necessary facts in order to *prima facie* establish the claim. Objector-
20 Debtor further acknowledges that a judgment on real property is created by recording an abstract
21 of a money judgment with the county recorder.

22 Objector-Debtor points to *Longview Int'l, Inc. v. Stirling* 35 Cal.App.5th 985, 988-989 (Cal.
23 Ct. App. 2019), citing *Keele v. Reich* 169 Cal.App.3d 1129, 1133 (1985), which concluded that
24 "[f]or a judgment lien to be valid, an abstract of judgment must be properly recorded and contain
25 all the information required by statute." For this point, Objector-Debtor contends that all the
26 information required by the statute is thus established under C.C.P. § 674.

27 Objector-Debtor notes that the Respondent in *Keele* argued that the standard for determining
28 whether an abstract of judgment complies with C.C.P. § 674 was "substantial" not "strict

1 compliance.” *Keele v. Reich*, 1132. Objector-Debtor points again to *Keele*, showing that the court
2 noted several opinions that found a lien upon “substantial compliance” with C.C.P. § 674 always
3 involved an abstract of judgment that contained all of the statutorily required date and were
4 challenged for containing extraneous symbols or data, an unusual format, or the like. *Keele v. Reich*,
5 1132. Finally, Objector-Debtor notes that “strict compliance” is the standard regarding the
6 inclusion of all information expressly required by C.C.P. § 674, and the court in *Keele*’s words “no
7 court has validated a judgment lien where mandated information was omitted from an abstract.”
8 *Keele v. Reich*, 1133.

9 Objector-Debtor then argues that because the abstract of judgment is lacking mandatory
10 information, the abstract fails to create a judgment lien that secures Creditor’s claim, whether the
11 subject real property, or any other property. Objector-Debtor also argues that the judgment is
12 noncompliant with itself as the judgment states that “[p]laintiff shall prepare a new Abstract of
13 Judgment” and that “[c]ase CU17-082402 shall be the lead file. All future court filings shall have
14 this case number.” When Creditor prepared the new Abstract of Judgment, she failed to include the
15 case number as ordered. Thus, Creditor’s claim is not secured and not allowable as a secured claim
16 in any amount, and is only an unsecured claim in its entirety.

17 Lastly, Objector-Debtor argues that when a claim is not *prima facie* valid, Objector-Debtor
18 only needs to object to the claim in order to place the burden back on the claimant. *In re Wells*, 407
19 B.R. 873, 882 (Bankr. N.D. Ohio 2008), citing *Raleigh v. Illinois Dep’t of Revenue*, 530 U.S. 15,
20 20-21 (2000).

21 Creditor’s Argument

22 Creditor on the other hand argues that the proof of claim executed and filed in accordance
23 with Fed. R. Bankr. P. 3001(f) shall constitute *prima facie* evidence of the validity of the claim and
24 that under C.C.P. § 697.310, a judgment lien is created by recording an abstract of a money
25 judgment with the county recorder. Creditor contends that because the abstract of money judgment
26 was recorded, the lien was perfected.

27 Creditor argues that the requirements of California Code of Civil Procedure § 674 must be
28 substantially complied with by a judgment creditor. *Huff v. Sweetser*, 8 Cal.App. 689, 696-97

1 (1908); *see generally* *Keele v. Reich*, 169 Cal.App. 3d 1129 (1985). Creditor points the court to
2 *Robbins Inv. Co. v. Robbins*, 49 Cal.App. 2d. 446, 448-449 (1942), where the court there stated that
3 the “requirements are of substance, not of form[.]” and that it is “unnecessary to copy into the
4 document words of the judgment beyond those actually essential to state the data required, their
5 presence in the abstract does not vitiate it [citation] or render its recordation ineffective.” Creditor
6 argues, that because the proof of claim shows that the judgment containing all of the related case
7 numbers was recorded with the abstract of judgment, the case number is not missing from the
8 abstract.

9 Creditor then points to *In re Marriage of Orchard*, 224 Cal.App. 3d. 155, 159 (1990), where
10 the court found a valid lien under California Code of Civil Procedure § 697.320 where a mandated
11 document was attached as “an exhibit” to the principal document, or otherwise not the face
12 document that was recorded. The court explained that the issue was a formality rather of substance
13 because the mandatory document was recorded and could be found after the face document. *In re*
14 *Marriage of Orchard*, 224 Cal.App. 3d at 159. Creditor further argues that the necessary
15 information of who and where the summons was served is provided in the abstract and the additional
16 section on the form provides no additional information. Lastly, Creditor points out that California
17 Code of Civil Procedure § 674(a)(3) states the abstract should contain the information. Creditor
18 contends that, because the abstract contained the Debtor’s address where he was served, it contained
19 all the necessary information, complying with the statutory requirements and perfecting the lien.

20 Creditor also asserts that the second page of the judicial council form is provided for
21 additional information about judgment creditors and judgment debtors. Because there was no
22 additional information to provide, the absence of the second page does not affect the lien’s validity.

23 Lastly, the Creditor argues that, even if problematic, the errors are clerical and may be
24 corrected, which would still perfect the lien before the Objector-Debtor’s bankruptcy. Creditor
25 points to *Commonwealth Land Title Co. v. Kornbluth*, 175 Cal.App. 3d. 518, 531 (1985), where the
26 court stated “[t]he trial court has inherent power to correct clerical errors in its records, whether
27 made by the clerk, counsel or the court itself, ‘so that such records will conform to and speak the
28 truth.’” In that case, the court considered whether an abstract was void for omitting information.

1 The court noted, “Appellants, by a very technical argument, are simply seeking to escape the effects
2 of a judgment lien on the properties which they purchased with knowledge of the lien.”
3 *Commonwealth Land Title Co. V. Kornbluth*, 530. Creditor notes, that the court in *Commonwealth*
4 distinguished *Keele* in that the creditor in *Commonwealth* “did not purposefully withhold
5 information on the abstract; the omission was obviously an inadvertent clerical error.”
6 *Commonwealth Land Title Co. v. Kornbluth*, 531.

7 Creditor requests an opportunity to seek relief from the stay and correct the clerical error if
8 the court determines that the clerical issues are problematic.

9 Objector-Debtor’s Response

10 Objector-Debtor argues that Creditor’s noncompliance with California Code of Civil
11 Procedure § 674 is not merely clerical and Creditor cannot travel back in time to retroactively create
12 a lien. Objector-Debtor points to *Sanger v. Ahn (In re Ahn)*, No. 18-16794 (9th Cir. Feb. 28, 2020),
13 in which the court found that:

14 [t]he relevant inquiry, however, is “not whether there was notice of the lien, but
15 whether the [Sangers’] abstract complied with statutory provisions enacted to insure
16 [sic] notice.” *Keele v. Reich*, 215 Cal. Rptr. 756, 758 (Ct. App. 1985). The text of
17 section 674(a)(4) is plain and unambiguous and requires the judgment creditor’s
18 name and address appear on the abstract of judgment. *See* Cal. Civ. Proc. Code §
674(a)(4). The substantial compliance standard has only been applied where “all of
the required data was included,” and “[n]o court has validated a judgment lien where
mandated information was omitted from an abstract.” *Keele*, 215 Cal. Rptr. at
758-59.

19 Objector-Debtor argues that while in *Sanger* it was the judgment creditor’s name and address
20 that was omitted from the abstract, the only difference between it and the instant case, is that the
21 omitted information was mandated by California Code of Civil Procedure § 674(a)(4) rather than
22 § 674(a)(3).

23 Objector-Debtor also states that as noted by the *Sanger v. Ahn* court, the *Commonwealth*
24 opinion is the sole decision that deviates from the standard in *Keele* and this was due to the unique
25 fact pattern in that case.

26 Lastly, Objector-Debtor again restates that Creditor is unable to meet the burden of proving
27 her claim is secured because the abstract fails to meet the strict compliance standard as it is missing
28 information required by California Code of Civil Procedure § 674, and thus her claim should be

1 allowed as an entirely nonpriority unsecured claim.

2 **DECISION**

3 The court begins with a consideration of an objection to claim. Here, if the objection is
4 sustained, then it “merely” means that the claim will not be paid through the bankruptcy plan. An
5 objection to claim does not adjudicate the lien rights of a creditor. For that, an adversary proceeding
6 is required (unless the parties consent to such adjudication in a contested matter, such as an
7 objection to claim). Fed. R. Bankr. P. 3007(b), 7001(2).

8 At January 12, 2021 hearing on the Objection to Confirmation (DCN: RJM-1), the Parties
9 stipulated to have this matter determined as a contested matter through the Objection to Claim,
10 waiving the adversary proceeding requirement of Federal Rule of Bankruptcy Procedure 7001(2).

11 This allows the court to determine the extent of any lien, and thereby determine what may
12 be Creditor’s unsecured claim in this case.

13 California Law re Abstract of Judgment

14 A review of Creditor’s Claim shows that the Abstract of Judgment is missing page 2. That
15 page is included in the Abstract of Judgment provided as Exhibit 1 attached to Objector-Debtor’s
16 Declaration. There is no information on page 2 of the Exhibit 1.

17 California Code of Civil Procedure § 674 provides as follows regarding the required
18 information for abstracts of judgment that are issued by the Clerk of the Superior Court:

19 § 674. Abstract of judgment

20 (a) Except as otherwise provided in Section 4506 of the Family Code, an abstract of
21 a judgment or decree requiring the payment of money shall be certified by the clerk
22 of the court where the judgment or decree was entered and shall contain all of the
23 following:

24 (1) The title of the court where the judgment or decree is entered and cause and
25 number of the action.

26 (2) The date of entry of the judgment or decree and of any renewals of the judgment
27 or decree and where entered in the records of the court.

28 (3) The name and last known address of the judgment debtor and the address at
which the summons was either personally served or mailed to the judgment debtor
or the judgment debtor’s attorney of record.

(4) The name and address of the judgment creditor.

(5) The amount of the judgment or decree as entered or as last renewed.

(6) The last four digits of the social security number and driver's license number of the judgment debtor if they are known to the judgment creditor. If either or both of those sets of numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.

(8) The date of issuance of the abstract.

Comparing the requirements of California Code of Civil Procedure § 674(a) to the Abstract of Judgment attached to Proof of Claim 1-1 yields the following:

California Code of Civil Procedure § 674(a) Requirements:	Abstract of Judgment Attached to Proof of Claim 1-1, p. 4.
(1) The title of the court where the judgment or decree is entered and cause and number of the action.	Superior Court - Nevada County Case No. Of Action - CU18-083268 (Action No. CU18-083268 is one of the three "Case Numbers" on the Amended Judgment attached to Proof of Claim 1-1.)
(2) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.	Judgment Entered on September 2, 2020
(3) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.	Judgment Debtor - Richard Eugene Myre Grass Valley Address of Debtor Stated Service of Summons Address Not Stated
(4) The name and address of the judgment creditor.	Judgment Creditor - Lauren Hayes P.O. Box Address Given
(5) The amount of the judgment or decree as entered or as last renewed.	Amount of Judgment Stated to be \$62,680.62

(6) The last four digits of the social security number and driver's license number of the judgment debtor if they are known to the judgment creditor. If either or both of those sets of numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.	Last Four Digits of SSN listed
(7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.	States That No Stay of Enforcement Ordered
(8) The date of issuance of the abstract.	Abstract Issued on September 2, 2020

Case Number Stated on Abstract of Judgment

As identified above, the Abstract of Judgment states that the State Court Case Number is CU18-083268. This is one of the three Case Numbers for the three State Court actions that were consolidated into the one judgment. *See* Amended Judgment After Stipulation attached to Claim, at 5.

Objector-Debtor has filed his Declaration under penalty of perjury in which his testimony includes the following:

- A. Prior to November 3, 2020, Objector-Debtor received the Amended Judgment After Stipulation and the Abstract of Judgment. Declaration, ¶ 2; Dckt. 30. Objector-Debtor authenticates them as Exhibit 1, which are attached to his Declaration (as opposed to being filed as a separate exhibit document as required by the Local Bankruptcy Rules).
- B. Objector-Debtor testifies that on January 5, 2021, he reviewed Proof of Claim 1-1 filed by Creditor, and states that he is informed and believed that it was filed on December 16, 2020. *Id.*, ¶ 4.
- C. Objector-Debtor then provides his opinion that the Exhibits attached to his Declaration are the same as the Abstract of Judgment and Amended Judgment After Stipulation are "substantially the same" as those attached to Proof of Claim 1-1. *Id.*
- D. Objector-Debtor then testifies that he has reviewed the Amended Judgment After Stipulation and "notes" for the court that it provides that "[c]ase CU17-082402 shall be the lead file. All future court filings shall have this case number. . . ." *Id.*, ¶ 5. He then states his opinion that the Abstract of Judgment lists the Case Number as CU18-083268, and then states his legal conclusion that such is a "contradiction" to the Amended Judgment After Stipulation. *Id.*
- E. Objector-Debtor concludes his testimony stating that he (as opposed to his attorney) also concludes that the Abstract of Judgment does not include information stating the address at which the summons was served or mailed. *Id.*, ¶ 6.

1 The court does not see anything in the file for this case indicating that Objector-Debtor is an attorney
2 or has legal training. The California State Bar does not list on its online attorney search page a
3 Richard Myre as an attorney licensed, or formerly licensed to practice law. Objector-Debtor does
4 not testify that he has legal training or understands the requirements for an abstract of judgment.

5 It appears that the “testimony” is merely an attorney constructed “sign so you can win”
6 declaration. Other than authenticating the two exhibits improperly attached to the Declaration, the
7 Objector-Debtor testifies what he “hears the written documents say” is not of assistance to the court.

8 Application of California Law

9 The Parties present the court with various California District Court of Appeal and a non-
10 precedent Ninth Circuit decisions. Beginning with *Keele v. Reich*, 169 Cal.App. 3d 1129 (2nd DCA
11 1985), which provides the following overview of the requirements for an abstract of judgment:

12 There is no ambiguity in section 674 in terms of the required contents of an abstract
13 of judgment. A debtor's social security number is mandatory. . .

14 An examination of the legislative history of section 674 shows a concern by the
15 Legislature over the problem of identifying a judgment debtor in an abstract as
16 opposed to a property owner who has the same or similar name as that of the
17 judgment debtor . . .

18 . . .
19 Our ruling is applicable only to the situation where an abstract of judgment contains
20 no social security number of the judgment debtor and the judgment creditor has
21 knowledge of the number. We do not rule that an abstract which does not contain
22 a social security number is automatically void. The issue of compliance with
23 statutory provisions for liens must be addressed on a case-by-case basis. (*Harold
24 L. James, Inc. v. Five Points Ranch, Inc.*, *supra*, p. 8.)

25 *Keele v. Reich*, 169 Cal.App. 3d 1129, 1132 (2nd DCA 1985).

26 The District Court of Appeal in *Keele* also addressed the argument that there did not need
27 to be strict compliance with the requirements of California Code of Civil Procedure § 674, but only
28 substantial compliance. The *Keele* decision reviewed the prior substantial decision cases, and then
concluded:

29 We disagree. The issue is not whether there was notice of the lien, but whether
30 respondent's abstract complied with statutory provisions enacted to insure notice.
31 **Moreover, the brief history of case law with regard to the proper contents of an
32 abstract of judgment indicates the substantial compliance standard has been
33 applied to situations where all of the required data was included. (*Weadon v.
34 Shahen, supra*; *Robbins Invest. Co. v. Robbins, supra*, 49 Cal.App.2d 446.) No court
35 has validated a judgment lien where mandated information was omitted from**

1 **an abstract.** (*Ellrott v. Bliss*, *supra*, 147 Cal.App.3d 901; *Huff v. Sweetser*, *supra*,
2 8 Cal.App. 689.)

3 Respondent concludes section 674 should be liberally construed. However, the
4 application of a liberal construction to the statute would frustrate legislative intent
5 regarding the specific contents of abstracts. (§ 1858, *supra*.) We find respondent has
6 not substantially complied with statutory formalities. (*Huff v. Sweetser*, *supra*, 8
7 Cal.App. 689.)

8 *Id.*, 1133.

9 While stated in *Keele* as an absolute, the California Court of Appeal for the Second District
10 concluded that there is a “clerical error” exception. Multiple abstracts of judgment which had been
11 prepared by counsel for the judgment creditor had been issued by the court, and for one the date the
12 judgment was entered was not included. In *Commonwealth Land Title Co. v. Kornbluth*, 175
13 Cal.App. 3d 581 (2nd DCA 1985), the Second Court of Appeal panel concluded:

14 Appellants' final contention is that the abstract of judgment in favor of Virginia
15 Emeline Creech, reflecting the amount of principal as \$ 35,000, is void because the
16 **abstract erroneously fails to state a date on which the judgment was entered.**
17 The contention lacks merit. **Appellants, by a very technical argument, are simply**
18 **seeking to escape the effects of a judgment lien on the properties which they**
19 **purchased with knowledge of the lien.** However, contrary to their contention, **the**
20 **abstract is not void.**

21 The trial court has inherent power to correct clerical errors in its records, whether
22 made by the clerk, counsel or the court itself, "so that such records will conform to
23 and speak the truth." (7 Witkin, Cal. Procedure (3d ed. 1985) Judgment, § 68, pp.
24 502-503; Code Civ. Proc., § 473.) A clerical error, as opposed to a noncorrectable
25 judicial error, is one that is made inadvertently. (7 Witkin, Cal. Procedure, *supra*,
26 Judgment, § 67, pp. 500-501.) Moreover, clerical errors are correctable at any time.
27 (*In re Marriage of Kaufman* (1980) 101 Cal.App.3d 147, 151; *Estate of Goldberg*
28 (1938) 10 Cal.2d 709, 716, 717 [76 P.2d 508].)

Here, the date of entry of judgment was omitted from only one of the five
abstracts of judgment which all were recorded on the same date the judgment
was entered. Since this error was obviously an inadvertent clerical error, it can be
corrected by the trial court.

Commonwealth Land Title Co. v. Kornbluth, 175 Cal.App. 3d 518, 530-531 (2nd DCA 1985).

For questions of state law, a federal court is bound by the decisions of the highest court of
that state. In the absence of such a decision, a federal court must predict how the highest state court
would decide the issue using intermediate appellate court decisions, decisions from other
jurisdictions, statutes, and treatises. *Vestar Dev. II, LLC v. Gen. Dynamics Corp.*, 249 F. 3d 958, 960
(9th Cir. 2001).

1 Under settled canons of statutory construction, the California Supreme Court² ascertains the
2 meaning of a statute by applying the usual and ordinary meaning of the words. *Kimmel v. Goland*,
3 51 Cal. 3d 202, 208 (Cal. 1990). The statute's plain meaning controls the court's interpretation
4 unless the words are ambiguous. *Green v. State of California*, 42 Cal. 4th 254, 260 (Cal. 2007).
5 When more than one statutory construction is arguably possible, the Supreme Court selects the
6 construction that comports most closely with the apparent legislative intent, seeking to promote,
7 rather than defeat, the statute's purpose. *Imperial Merchant Services, Inc. v. Hunt*, 47 Cal. 4th 381,
8 388 (Cal. 2009).

9 This court has not been presented with, nor has been able to locate, a Supreme Court decision
10 interpreting the requirements of California Code of Civil Procedure § 674. Beginning with the
11 “plain language of the statute,” the California Legislature has stated that an abstract of judgment
12 shall be certified by the clerk of the court “[a]nd contain all of the following: [stating the eight
13 required items of information cited above in this court's review of the statute]. . . .”

14 The information shall, not may, might, or electively include, both the case number and the
15 service of summons information. As discussed in *Keele*, the California Legislature has determined
16 what information is necessary to have the judgment debtor correctly identified and not sow
17 confusion in connection with California real property ownership and records. As also discussed in
18 *Keele*, the substantial compliance decisions as of that time were situations in which the abstract of
19 judgment contained additional information beyond that required by the statute. *Keele v. Reich*, 169
20 Cal.App. 3d at 1133.

21 Here, Creditor omitted one piece of required information, the service of summons, and
22 entered an incorrect case number for the other. While Creditor might possibly be able to argue that
23 the case number is a mere clerical error (information being provided) and if a party went to that case
24 file it would tie back to the consolidated case number CU17-082402, there has not been compliance
25 with the requirement to provide the name and address for service of the summons.

26
27
28 ² Unless otherwise stated, references to “Supreme Court” are to the California Supreme Court.

1 Though Creditor obtained a substantial Amended Judgment After Stipulation in the amount
2 of \$62,680.62, Creditor did not comply with California law in the abstract of judgment which
3 Creditor submitted to the clerk of the State Court.

4 Though Creditor argues that it is merely “clerical” that necessary information was omitted
5 and it can be “corrected” as merely a “clerical error,” failing to include information is not a mere
6 typo. While the Court of Appeal in the *Commonwealth* Decision held that omitting the date of
7 judgment on one of eight abstracts of judgment was a clerical error, such is inconsistent with the
8 plan language of the statute. Even if consistent, the facts presented to this court are not one in which
9 Creditor was pounding out multiple abstracts of judgment, correctly putting the information on all
10 of them except for one.

11 The Bankruptcy Appellate Panel for the Ninth Circuit addressed this issue in *Alcove Inv., Inc.*
12 *v. Conceicao (In re Conceicao)*, 331 B.R. 885 (B.A.P. 9th Cir. 2005), in a case where the judgment
13 creditor failed to include the judgment debtor’s social security or driver’s license number when
14 known. The Panel concluded that it concurred with the *Keele* strict compliance requirement, and
15 that failure to comply with the California Code of Civil Procedure § 674 resulted in no lien being
16 created. *Alcove Inv., Inc. v. Conceicao (In re Conceicao)*, 331 B.R. 885, 891 (B.A.P. 9th Cir. 2005).
17 The Bankruptcy Appellate Panel also noted that if the *Kornbluth* clerical error correction was the
18 correct interpretation, and concluded that even if such was applied, it could not save a judgment lien,
19 the automatic stay or discharge injunction blocking corrections to create a lien. *Id.* at 892.

20 Creditor not having complied with California Code of Civil Procedure § 674, no lien was
21 created. Thus, this is not a situation in which the lien is “merely” avoidable (such as 11 U.S.C.
22 §§ 544, 547, and 548), but one in which no lien exists as of the commencement of this case.

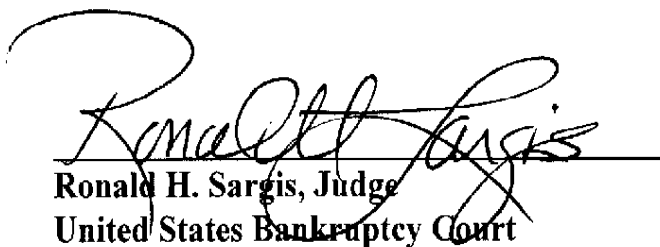
23 The Objection is sustained and the court determines that a judgment lien for Creditor was
24 not created by the recording of the abstract of judgment form recorded on September 21, 2020, with
25 the Nevada County, California County Recorder, Document No. 20200024316, a copy of which is
26 attached to the Claim, p. 4. There being no lien to secure the Claim, it is disallowed as a secured
27 claim, with the obligation owed thereon being an unsecured claim in this case.

28 ///

1 The court shall issue a separate order sustaining the objection consistent with this
2 Memorandum Opinion and Decision.

3 **Dated:** April 15, 2021

By the Court

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7 Ronald H. Sargis, Judge
8 United States Bankruptcy Court
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Instructions to Clerk of Court

Service List - Not Part of Order/Judgment

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The Clerk of Court is instructed to send the Order/Judgment or other court generated document transmitted herewith *to the parties below*. The Clerk of Court will send the document via the BNC or, if checked ☐, via the U.S. mail.

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Debtor(s)	Attorney for the Debtor(s) (if any)
Bankruptcy Trustee (if appointed in the case)	Office of the U.S. Trustee Robert T. Matsui United States Courthouse 501 I Street, Room 7-500 Sacramento, CA 95814
Attorney for the Trustee (if any)	Richard Morin, Esq. 555 Capitol Mall, Ste. 750 Sacramento, CA 95814